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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **FAO 400/2018 & CM APPLs. 6463/2017, 15070/2017**
ANISH ANANDAppellant
Through: Mr. Ashish Kapoor, Advocate

versus
ASHOK KUMAR SINHARespondent
Through: None.

CORAM:
HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA

% **ORDER**
10.11.2025

1. The present appeal has been filed under Sections 96 and 151 of the Code of Civil Procedure, 1908, (the CPC) seeking to set aside the impugned judgment dated 23.02.2015 in Civil Suit No. 140/2011 and order dated 06.10.2016 in M No. 61215/2016 filed under Order 9 Rule 13 CPC passed by the learned ADJ (Central), Tis Hazari Courts, Delhi.

2. The facts in brief are that the respondent/plaintiff filed a suit for recovery of Rs. 3,70,900/- along with interest against the appellant/defendant. According to the appellant/defendant summons was never served on him. He came to know of the



decree only when the notice in the execution petition was served on him. The report of the process server to the effect that summons was refused to be accepted by appellant/defendant is false. The respondent/plaintiff in connivance with the officials of the postal department obtained a false report that the appellant/defendant refused to accept the summons. As summons was never served on the appellant/defendant, the trial court went wrong in finding otherwise and dismissing the application filed for setting aside the *ex-parte* decree.

3. There is no representation on behalf of the respondent.

4. Heard the learned counsel appearing on behalf of the appellant/defendant.

5. In the plaint, two addresses of the appellant/defendant have been given. Summons were sent to both the said addresses. Summons issued to both the addresses were refused to be accepted. Hence, the appellant/defendant was set *ex-parte* by the trial court and the matter was proceeded with. The



appellant/defendant has no case that the addresses referred to in the
plaint are wrong/incomplete or that they are not his addresses. The
statement of the process server at Page No.176 of the appeal, i.e.,
Annexure A-9, reads thus: -

“Suit No. 140/11

*Statement of Sh. Parveen Yadav S/o Sh. Mohar Singh
Yadav, Process Server, E. Code 10254, Tis Hazari Court,
Delhi*

On SA

*I was handed over summons of defendant Anish
Anand for service. On 3.07.2012 I visited at the given
address i.e H-303, New Rajinder Nagar, New Delhi-60
**where the mother of defendant Anish Anand met and
refused to receive the summons as the defendant is not at
home and will accept the summons. As per directions of
this hon'ble court I pasted the copy of the summon at the
outer gate of the premises.** In this regard my report is Ex.
CW-1/A which bears my signatures at Point A & B and
which is correct.”*

(emphasis supplied)

6. The appellant/defendant has also a case that the
endorsement by the postal authority concerned that the summons
served by post was refused to be accepted is a false report which
the respondent/plaintiff managed to obtain from the postal



department. There are no materials whatsoever on record to even probabilise the said contention of the appellant/defendant. Official acts are presumed to have been performed correctly and regularly unless otherwise shown. Summons is seen taken by all permissible modes. The materials on record show that summons was in fact served and the allegations in the application to the contrary is apparently false/incorrect. Moreover, it also needs to be noted that notice served to the appellant/defendant in the execution proceedings was accepted by him in the very same addresses shown in the plaint.

7. In view of the above, I find no infirmity in the impugned order, calling for an interference by this Court.

8. The appeal *sans* merit is thus dismissed. Application(s) if any pending, shall stand closed.

CHANDRASEKHARAN SUDHA, J

NOVEMBER 10, 2025

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